IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL TRANSFER APPL. No. 26 of 2004

PREMI
V/S
KHINA RAM

Mr. NAGRAJ GOSWAMI, for the appellant / petitioner

Mr. PURNSINGH, for the respondent

Date of Order : 16.2.2005

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the parties.

By this application, petitioner seeks transfer of matrimonial case no.5/04 pending in the Court of Additional District Judge, Nagaur filed under Section 9 of the Hindu Marriage Act.

It is contended by learned counsel for the petitioner that the petitioner had filed an application u/s 13 of the Hindu Marriage Act before the Family Court, Jodhpur way-back on 16.1.2004, which is already pending, and after service of notice of that petition, the respondent has filed petition u/s 9 of the Hindu Marriage Act in the Court of Additional District Judge, Nagaur as late as on 19.10.2004 being case no.5/04. With these facts, it is contended that the petitioner is a lady, suffering from tuberculosis, and she is fully dependent on the parents, and the respondent is not giving any maintenance either. In such circumstances, coupled with the nature of averments made in the divorce petition, the case is required to be transferred from Nagaur to Jodhpur, and both the cases are required to be heard together. The factual part of the petitioner filing divorce petition earlier point of time is not in dispute.

In that view of the matter, keeping in mind, the spirit of the provisions of Section 21A of the Hindu Marriage Act, I am inclined to allow the transfer application. Accordingly, the same is allowed. The matrimonial case no.5/04 (Khina Ram Vs. Premi) pending in the Court of Additional District Judge, Nagaur is hereby ordered to be transferred to Family Court, Jodhpur with a direction to try that matter with the petitioner's divorce petition no.81/2004 pending in the Family Court, Jodhpur.

(N P GUPTA),J.

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